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10/731,116	12/10/2003	Toshihiko Kaku	4243-0106P	4657
2292 7590 06/25/2008 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				
EXAMINER CHU, RANDOLPH I				
ART UNIT		PAPER NUMBER		
2624				
NOTIFICATION DATE		DELIVERY MODE		
06/25/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary

Application No.

10/731,116

Applicant(s)

KAKU, TOSHIHIKO

Examiner

RANDOLPH CHU

Art Unit

2624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2008.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
4a) Of the above claim(s) 17-21 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-16 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
3) ☐ Information Disclosure Statement(s) (PTO/SE-08)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Response to Argument

3. Applicant's arguments filed on April 7, 2008 have been fully considered.

Applicant's argue on page 2 of the response that Independent claim 17 and claims 18-21 dependent therefrom are drawn to an image pickup apparatus.

The examiner agree. The Examiner agrees that claims 18-21 are depend on claim 17 and these claims are part of Group II, Image pickup apparatus.

Applicant's argue on page 2 of the response that each of claims 1-21 has already been treated on its merits, in the detailed Office Action of June 14, 2007.

The Examiner recognized each claim was treated. However, upon further examination, different inventions were found. In order for the examiner to proper examine each invention, the examiner needs to separate each invention to allow for proper search and examination. Also based on remarks received on 12/13/07, the Sannaoh reference no longer applies to each independent claim.

Election/Restrictions

1. Applicant elects the invention of Group I with traverse.

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2. This application contains claims 17-21 drawn to an invention nonelected with traverse in the reply filed on 4/7/2008. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1,7,8 and 14-16 are rejected under 35 U.S.C. 102(e) as being anticipated by White et al. (US 2004/0041924).

With respect to claim 1, White et al. teaches, an image acquisition section that acquires image data representing an image (Fig 1, ref no. 102);

a correction section that detects a particular eye-related defect in the image represented by the image data acquired by the image acquisition section and corrects the detected defect (Fig 1; ref no. 108, 110 and 113); and

an image display section that displays the number of positions at which the defect has been detected by the correction section, together with the image including the positions (Fig 1; ref no. 114, para. [0058] and [0068]).

With respect to claim 6, White et al. teaches a confirmation section that receives an operation for confirming the positions in the image displayed by the image display section, at which the defect has been detected by the correction section (Fig. 6 Accept button) , wherein the image display section, when displaying the number of the positions, displays the number of the positions minus the number of positions confirmed by the confirmation section (number of eye color defect) (para[066]-[069]).

With respect to claim 7, White et al. teaches that correction section detects red-eye portions in the image and corrects the detected red-eye portions (Fig 1; ref no. 108, 110 and 113).

With respect to claim 8, please refer to rejection for claim 1.

With respect to claim 14, please refer to rejection for claim 7.

With respect to claim 15, please refer to rejection for claim 1.

With respect to claim 16, please refer to rejection for claim 1.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 2 is rejected under 35 USC 103(a) as being unpatentable over White et al. (US 2004/0041924) in view of Karasawa (US 2002/0051225).

White et al. teach all the limitations of claim 1 as applied above from which claim 4 respectively depend.

White et al. does not teach expressly that prioritizes the positions at which the defect has been found based on a predetermined criteria, and , displays in preference a position to which a higher priority.

Karasawa teaches prioritizes the positions at which the defect has been found based on a predetermined criteria and displays in preference a position to which a higher priority (para [0022]).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to display preference a position to which a higher priority in the apparatus of White et al.

The suggestion/motivation for doing so would have been that defect with higher priority can display and correct with higher priority than other defects.

Therefore, it would have been obvious to combine Karasawa with White et al. to obtain the invention as specified in claim 2.

5. Claim 3 is rejected under 35 USC 103(a) as being unpatentable over White et al. (US 2004/0041924) in view of Robertson et al. (US patent 5,245,421).

White et al. teaches all the limitations of claim 1 as applied above from which claim 3 respectively depend.

White et al. does not teach expressly that display section, when displaying the image, displays a list of the positions.

Robertson et al. teaches that display section, when displaying the image, displays a list of the positions (co. 7 line 63 –col. 8 line 5).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to display list of the positions for the defect in image in the apparatus of White et al.

The suggestion/motivation for doing so would have been that user can easily identifies all the defect with list of the position.

Therefore, it would have been obvious to combine Robertson et al. with White et al. to obtain the invention as specified in claim 3.

6. Claims 4 and 5 are rejected under 35 USC 103(a) as being unpatentable over White et al. (US 2004/0041924) in view of Sato et al. (US Patent 6,977,676).

White et al. teaches all the limitations of claim 1 as applied above from which claims 4 and 5 respectively depend.

White et al. does not teach expressly that zooms at least one of the positions and displaying the image, and displays a normal image in which none of the positions is zoomed and a zoomed image in which at least one of the positions is zoomed.

Sato et al. teaches zooms at least one of the positions and displaying the image, and displays a normal image in which none of the positions is zoomed and a zoomed image in which at least one of the positions is zoomed (Fig 2 and 9; col. 2 line 54 – col. 2 line 21).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to zoom the position of the defect and display it in the apparatus of White et al.

The suggestion/motivation for doing so would have been that user can easily identify the defect in detail with zoomed image.

Therefore, it would have been obvious to combine Sato et al. with White et al. to obtain the invention as specified in claims 4 and 5.

With respect to claim 9, please refer to rejection for claim 2.

With respect to claim 10, please refer to rejection for claim 3.

With respect to claim 11, please refer to rejection for claim 4.

7. Claim 12 is rejected under 35 USC 103(a) as being unpatentable over White et al. (US 2004/0041924) in view of Fushiki et al. (US Patent 7,065,249).

White et al. teaches all the limitations of claim 8 as applied above from which claim 12 respectively depend.

White et al. does not teach expressly that a correction cancellation section that restores the defect corrected by the correction section, in the corrected image displayed by the image display section, to the original condition held before the defect is corrected by the correction section.

Fushiki et al. teaches a correction cancellation section that restores the defect corrected by the correction section, in the corrected image displayed by the image display section, to the original condition held before the defect is corrected by the correction section (col. 10 lines 36-52).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to cancel the defect correction in the apparatus of White et al.

The suggestion/motivation for doing so would have been that it will allow user to reverse changes to the image.

Therefore, it would have been obvious to combine Fushiki et al. with White et al. to obtain the invention as specified in claim 12.

8. Claim 13 is rejected under 35 USC 103(a) as being unpatentable over White et al. (US 2004/0041924) in view of Murray et al. (US 2002/0109854).

White et al. teaches all the limitations of claim 8 as applied above from which claim 13 respectively depend.

White et al. does not teach expressly that image display section, when displaying the corrected image, emphasizes the defect corrected by the correction section.

Murray et al. teaches that image display section, when displaying the corrected image, emphasizes the defect corrected by the correction section (para. [0035]).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to emphasize the defect corrected by the correction section in the apparatus of White et al.

The suggestion/motivation for doing so would have been that image improvement can be highlighted so to be easily detectable by an operator.

Therefore, it would have been obvious to combine Murray et al. with White et al. to obtain the invention as specified in claim 13.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randolph Chu whose telephone number is 571-270-1145. The examiner can normally be reached on Monday to Thursday from 7:30 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Bella can be reached on 571-272-7778. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RIC/

/Matthew C Bella/

Supervisory Patent Examiner, Art Unit 2624